

[No Report.]

JANUARY 20, 1847.

Read twice, and committed to the Committee of the Whole House on the state of the Union.

Mr. WILLIAM W. CAMPBELL, from the Select Committee on the Revision of the Consular System, reported the following bill :

A BILL

To carry into effect certain provisions in the treaties between the United States and China and the Ottoman Porte, giving certain judicial powers to ministers and consuls of the United States in those countries.

1 *Be it enacted by the Senate and House of Representatives*
2 *of the United States of America in Congress assembled, That*
3 *for the purpose of carrying into full force and effect the twenty-*
4 *first and twenty-fifth articles of the treaty of peace, amity, and*
5 *commerce, concluded July third, eighteen hundred and forty-*
6 *four, between the United States and the Chinese empire, the min-*
7 *ister or commissioner of the United States resident in China, and*
8 *the consuls and vice-consuls of the United States, and each of*
9 *them, who are or may be appointed to reside at the five ports*
10 *mentioned in the third article of said treaty, shall be authorized*
11 *and empowered; and they are hereby authorized and empowered,*
12 *to hold courts for the trial and decision of "all questions in re-*
13 *gard to rights, whether of property or person, arising between*
14 *citizens of the United States in China," and for the trial and*

15 punishment of all "citizens of the United States who may
16 commit any crime in China;" and they shall hear and decide
17 all such questions as may arise in regard to rights of property
18 or person, and try and punish those who may commit crimes
19 according to the common law and the statutes of the United
20 States, except as the modes of trial may be herein differently
21 prescribed. And for the purposes aforesaid the said minister or
22 commissioner, consuls and vice-consuls, and each of them, shall
23 have power to issue all necessary writs and processes, and may
24 appoint or designate, from time to time, a suitable person to
25 serve the same; the expenses and charges to be defrayed in the
26 first instance by the party applying for such writ or process in
27 all cases arising under the twenty-fifth article of said treaty.

1 *SEC. 2. And be it further enacted,* That in all cases arising
2 under and by virtue of the twenty-fifth article of said treaty,
3 and where the matter in controversy or the damages claimed do
4 not exceed in amount the sum of five hundred dollars, the same
5 shall be heard and determined by the consul or vice-consul of
6 the port or district where the contract was made, or the contro-
7 versy arose, or the damages were sustained; and the determina-
8 tion and decision of such consul or vice-consul shall be final
9 thereon; and all other cases or matters arising under said twen-
10 ty-fifth article shall in like manner be prosecuted before said
11 consuls or vice-consuls in the district where they arose; but
12 the decision of such consul or vice-consul may be appealed from,

13 by the party against whom the decision is made, to the minister
14 or commissioner, upon such terms and under such regulations as
15 said consul or vice-consul may prescribe ; and the said minister
16 or commissioner shall examine into the matter thus appealed to
17 him, and shall decide the same, and his decision shall be final
18 thereon ; and in all cases thus coming before said minister or
19 commissioner, consuls or vice-consuls, each and all of them shall
20 render their decisions without unnecessary delay, and they shall
21 determine and decide all such questions and controversies as
22 may be submitted to them, according to law and strict justice,
23 without reference to any defect or want of legal form in any
24 proceedings which may be had to bring such questions and
25 controversies before them ; and such minister or commissioner,
26 consuls and vice-consuls, shall have power to award to the party
27 in whose favor the decision may be given such moderate costs
28 as such minister, consul or vice-consul, shall consider just and
29 reasonable, taking great care that in this and all other of their
30 proceedings they shall not be oppressive.

1 SEC. 3. *And be it further enacted,* That any act done in
2 China, which being done in the United States would, according
3 to the common law or under any statute of the United States,
4 render the person committing said act, or his agents or abettors,
5 amenable to punishment, shall, when done by citizens of the
6 United States in China, be considered as criminal to the same

7 extent as if done in the United States, and shall be inquired of,
8 tried, determined, and punished by said minister or commis-
9 sioner, consuls and vice-consuls, as in manner hereinafter provi-
10 ded. Each of said consuls and vice-consuls shall have authority,
11 and it shall be his duty, to cause any citizen of the United States
12 charged with having committed any crime or offence in China to
13 be apprehended and brought before him, and he shall examine
14 upon oath all witnesses who may appear to substantiate the charge,
15 and may summon any citizen of the United States to give evi-
16 dence, and enforce his attendance by a fine if necessary, and
17 shall call upon the authorities of China to aid in procuring the
18 attendance of other witnesses who may decline or refuse to at-
19 tend. He shall examine all witnesses in the presence of the ac-
20 cused, and shall afford all reasonable facility for cross-examina-
21 tion, and shall reduce the depositions to writing, and shall take
22 the evidence of any witness whom the accused person may ten-
23 der to be examined in his exculpation; and when the trial has
24 in this manner been gone through with, if the said consul or
25 vice-consul shall be convinced of the guilt of the party brought
26 before him, he shall have power to award a degree of punish-
27 ment not exceeding imprisonment for three months, or a fine of
28 five hundred dollars. But if any citizen of the United States is
29 accused of a crime committed in China, which, if proved, would
30 not be adequately punished by the infliction of such aforesaid

31 punishment, then the said consul or vice-consul shall summon
32 two or more, not exceeding four, citizens of the United States,
33 of intelligence and good repute, to sit with him as advisers, for
34 inquiring of, trying, and determining the case or cases before the
35 said consul or vice-consul; said advisers, however, shall have no
36 authority to decide on the innocence or the guilt of the party
37 accused, or on the amount of punishment to be awarded on con-
38 viction, but they may give their advice on these points. The
39 consul or vice-consul shall alone decide, and shall award the
40 amount and degree of punishment; but in the event of any one
41 or more of the said advisers dissenting from the conviction or
42 from the amount of punishment awarded, such advisers or ad-
43 viser are authorized to enter on the minutes of the proceedings
44 the grounds and reasons of their or his dissent; and in that case
45 it shall be the duty of the consul or vice-consul to report the
46 whole matter, with the evidence, to the minister or commission-
47 er of the United States, resident in China, which minister or
48 commissioner shall have power to mitigate or remit the pun-
49 ishment: *Always provided*, That in all cases of crime where
50 the punishment shall be death, the same shall not be inflicted,
51 whether the advisers or either of them dissent or not, until the
52 whole matter and the evidence shall have been submitted to the
53 minister or commissioner of the United States, and his approval of
54 said punishment, in writing, shall have been obtained: *Always*
55 *further provided*, That the said minister or commissioner, con-

56 suls and vice-consuls, may, in all cases of assault and minor of-
57 fences, promote reconciliation between the parties, and suffer
58 compensation and amends to be made ; and further, in case of
59 the death or absence of the commissioner or minister, the pow-
60 ers vested in him by this act shall be exercised by the secretary
61 of legation.

1 SEC. 4. *And be it further enacted*, That in all cases of
2 crimes or offences committed by citizens of the United States
3 within the dominions of the Sublime Porte, the minister of the
4 United States and the consuls and vice-consuls of the United
5 States, resident in said dominions, shall have the same powers
6 and duties, and be clothed with the same authority, as by this act
7 are given to or imposed upon the minister or commissioner, and
8 consuls and vice-consuls of the United States, resident in China :
9 *Always provided*, That no vice-consul in China, or in the do-
10 minions of the Porte, shall be permitted to exercise any such
11 authority, unless he holds his commission directly from the gov-
12 ernment of the United States ; and, further, that in case of the
13 death or absence of the minister of the United States resident in
14 said dominions of the Sublime Porte, the powers and duties vested
15 in and imposed upon him by this act may and shall be exercised
16 and performed by the secretary of legation of the United States :
17 *And further provided*, That in case of the death or absence of
18 any consul or vice-consul in China, or in the dominions of the

19 Sublime Porte, or in case of any vacancy in such office, the
20 powers and duties herein vested and imposed shall be exercised
21 and discharged by the consul or vice-consul of the United States
22 in the port or place, in the respective countries, nearest to that in
23 which the controversy arose, or where the crime or offence was
24 committed.